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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,640	08/29/2001	Jorg Vollandt	1117.40504X00	5602

20457 7590 12/16/2004

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

EXAMINER

GENACK, MATTHEW W

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/940,640

Applicant(s)

VOLLANDT, JORG

Examiner

Matthew W. Genack

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>29 August 2001</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Regarding claim 1, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). It is not clear whether the applicant intends to make claim the broad scope (electronic devices) or the narrow scope (mobile telephones). The Examiner assumes that the former is the case.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Buck *et. al.*, U.S. Patent No. 4,375,666.

Regarding claim 1, Buck *et. al.* discloses an electronic guessing game that may involve either one player or two players. A method is disclosed for operating an electronic device in accordance with the game's rules (Abstract). Either a random number generator or one of two players randomly generates and inputs an integer from one to two thousand (Column 1 Lines 65-68, Column 2 Lines 48-56). Either the lone player or the player who did not enter the random integer from one to two thousand then

Art Unit: 2645

inputs what is an attempt, or request, for a specific set of functions, or events: the rewards for winning the game, e.g. correctly guessing and inputting the random integer (Column 3 Lines 18-22, Column 4 Lines 36-41). The electronic device compares the characters, or numerical digits, inputted by the guessing player, with the characters, or numerical digits, of the random integer and then provides the guessing player with feedback regarding how close his guess is. If the guess is close to the random integer, so close that some of the characters, or numerical digits, of the random integer and the guess may be the same (within ten), then a specific tone is played (Column 5 Lines 22-29). If and when the player enters the random integer, a winning tune is played (Column 5 Lines 33-45).

Regarding claim 2, Buck *et. al.* discloses a sequence of actions that must precede the entering of the string of characters. When there are two players, the switch is moved from Off to Player. The non-guessing player then presses the Clear key, followed by the keys corresponding to the random number of his choosing, followed by the Enter key. The guessing player may now enter the string of characters corresponding to his guess (Column 5 Line 51 to Column 6 Line 7).

Regarding claim 3, Buck *et. al.* discloses a feedback method in which the user is notified that he is within ten of the random integer. A high pitched tone will indicate that his guess is higher and within ten of the random integer, and a low pitched tone will indicate that his guess is lower and within ten of the random number (Column 5 Lines 22-30). When the guess is within ten of the random integer, this will normally indicate

Art Unit: 2645

that at least one of the numerical digits matches in both the guess and the random integer (*i.e.* the most significant digit(s)).

Regarding claims 4 and 5, Buck *et. al.* discloses that a special tune is played when the string input matches the random integer (Column 13 Lines 1-8).

Regarding claim 9, Buck *et. al.* discloses that the guess is entered via numerical keys (Column 4 Lines 36-37).

Regarding claim 12, Buck *et. al.* discloses that the guessing player terminates his guess sequence by pressing the Enter key (Column 4 Lines 39-41).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buck *et. al.* in view of Harpaz, U.S. Patent No. 6,568,683.

Buck *et. al.* discloses all of the limitations of claim 1, as outlined above.

Buck *et. al.* does not expressly disclose the capability of playing several games without having to flip the switch to Off and back to Random prior to every new game.

Harpaz discloses a an electronic game system (Abstract). Two players may play several games in a row without cycling power to the electronic device: when the game is over, a new game automatically begins (Column 6 Lines 54-61).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify the invention of Buck *et. al.* with circuitry for allowing one player to play as many games as he desires without having to cycle power with the switch prior to every new game. In other words, every time a new game is started in one player mode after a previous game ends, either with a win or a loss, a new random number is automatically generated.

One of ordinary skill in the art would have been motivated to make this change because of the inconvenience experienced by a player wishing to play several consecutive games with the system disclosed by Buck *et. al.*

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buck *et. al.* in view of Prafullchandra, U.S. Patent No. 5,734,718.

Buck *et. al.* discloses all of the limitations of claim 1, as outlined above.

Buck *et. al.* does not expressly disclose an algorithm by which the random number is changed at regular intervals during the game.

Prafullchandra *et. al.* teaches the background of the concept of password aging, the updating of the password after a certain amount of elapsed time in the context of the disclosed invention (Column 2 Lines 28-36). There exists a table with information that includes the user names, user identifications, passwords, the time the passwords were last changed, and the maximum time that may elapse before which a user may log in with the unchanged password. When a user tries to log in after this time, he is prompted to change his password (Column 5 Lines 28-56).

Art Unit: 2645

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to modify the invention of Buck *et. al.* with a concept parallel to that of password aging, such that during single player mode, the random number, which is essentially the password for winning the game, changes a certain number of times within the allotted time period for one game.

One of ordinary skill in the art would have been motivated to make this change to the invention of Buck *et. al.* because of the additional challenge that this would present to the single player. There are scenarios when the player determined the random number slightly too late, and having lost track of time, realizes that there is a new target random number, and then must quickly endeavor to find this random number before the random number changes again, or before time elapses for the entire game.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buck *et. al.* in view of Prafullchandra, further in view of Colvin, U.S. Patent No. 6,502,195.

Buck *et. al.* in view of Prafullchandra discloses the limitation of claim 7, as outlined above.

Neither Buck *et. al.* nor Prafullchandra expressly disclose the use of random time intervals between random integer/password changes.

Colvin discloses the requirement that a new operating password be obtained after an interval of time, since software registration, of random length, in order for the software to remain operational. This may be a fully automated process that occurs via modem (Column 7 Lines 56-67).

Art Unit: 2645

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to modify the invention of Buck *et. al.* as modified by Prafullchandra by causing the target random number to be changed at random intervals which are not announced to the single player.

One of ordinary skill in the art would have been motivated to make this change to the invention of Buck *et. al.* because of the extreme challenge that this would present to the single player. Known regular intervals between target random number changes would present an additional difficulty for the player, and the target random number being changed at random would be an extra challenge for the single player.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buck *et. al.* in view of Knockheart *et. al.*, U.S. Patent Application Publication 2002/0069071.

Buck *et. al.* discloses all of the limitations of claim 1, as outlined above.

Buck *et. al.* does not expressly disclose the use of a turn-push-button for inputting data.

Knockheart *et. al.* discloses the use of turn-push-buttons in conjunction with characters displayed on a display as means for input in telematic applications ([0005], Figs. 4-5).

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to modify the invention of Buck *et. al.* by adding a display, which displays numbers, along with a turn-push-button, which would be used to select said displayed numbers.

Art Unit: 2645

One of ordinary skill in the art would have been motivated to make this change because some players may be able to enter numbers faster in this manner.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buck *et. al.* in view of Chappuis, U.S. Patent Application Publication 2003/0171993.

Buck *et. al.* discloses all of the limitations of claim 1, as outlined above.

Buck *et. al.* does not expressly disclose the use of an air interface for inputting data.

Chappuis discloses the use of an air interface for sending SMS messages ([0069]).

At the time that the invention was made, it would have been obvious to one of ordinary skill in the art to modify the invention of Buck *et. al.* by adding circuitry which would allow a user to send SMS messages, containing numerical data corresponding to guesses from one to two thousand, to the electronic game device.

One of ordinary skill in the art would have been motivated to make this change because of the resulting added dimension to game play that would result from letting a player have another remotely input the guesses for him as he plays the other features of the game in person.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew W. Genack whose telephone number is 703-605-4305. The examiner can normally be reached on FLEX.

Art Unit: 2645

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Matthew Genack

Examiner

Art Unit 2645



29 November 2004



FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600